

ASSEMBLY BILL

No. 1865

Introduced by Assembly Member Audra Strickland

February 12, 2010

An act to amend Section 50843.5 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1865, as introduced, Audra Strickland. Local Housing Trust Fund Matching Grant Program.

Existing law establishes the Local Housing Trust Fund Matching Grant Program for the purpose of supporting local housing trust funds dedicated to the creation or preservation of affordable housing. Under the grant program, the Department of Housing and Community Development is authorized to make matching grants available to cities, counties, city and counties, and existing charitable nonprofit organizations that have created, funded, and operated housing trust funds. Existing law establishes the minimum allocation to a program applicant at \$500,000 for a newly established trust, as defined, that is in a county with a population of less than 425,000 persons, based on the decennial United States Census for the year 2000, and at \$1,000,000 for all other trusts.

This bill would instead establish the minimum allocation to a program applicant at \$500,000 for all newly established trusts.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 50843.5 of the Health and Safety Code is amended to read:

50843.5. (a) Subject to the availability of funding, the department shall make matching grants available to cities, counties, city and counties, and charitable nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code that have created and are operating or will operate housing trust funds. These funds shall be awarded through the issuance of a Notice of Funding Availability (NOFA).

(1) Applicants that provide matching funds from a source or sources other than impact fees on residential development shall receive a priority for funding.

(2) The department shall set aside funding for new trusts, as defined by the department in the NOFA.

(b) Housing trusts eligible for funding under this section shall have the following characteristics:

(1) Utilization of a public or joint public and private fund established by legislation, ordinance, resolution, or a public-private partnership to receive specific revenue to address local housing needs.

(2) Receipt of ongoing revenues from dedicated sources of funding such as taxes, fees, loan repayments, or private contributions.

(c) The minimum allocation to an applicant that is a newly established trust, ~~and is in a county with a population that conforms with paragraph (2) of subdivision (e) of Section 53545.9,~~ shall be five hundred thousand dollars (\$500,000). ~~The minimum allocation for all other trusts shall be one million dollars (\$1,000,000).~~ No applicant may receive an allocation in excess of two million dollars (\$2,000,000). All funds provided pursuant to this section shall be matched on a dollar-for-dollar basis with money that is not required by any state or federal law to be spent on housing. No application for an existing housing trust shall be considered unless the department has received adequate documentation of the deposit in the local housing trust fund of the local match and the identity of the source of matching funds. An application for a new trust shall not be considered unless the department has received adequate documentation, as determined by the department, that an ordinance

1 imposing or dedicating a tax or fee to be deposited into the new
2 trust has been enacted or the applicant has adopted a legally binding
3 commitment to deposit matching funds into the new trust. Funds
4 shall not be disbursed by the department to any trust until all
5 matching funds are on deposit and then funds may be disbursed
6 only in amounts necessary to fund projects identified to receive a
7 loan from the trust within a reasonable period of time, as
8 determined by the department. Applicants shall be required to
9 continue funding the local housing trust fund from these identified
10 local sources, and continue the trust in operation, for a period of
11 no less than five years from the date of award. If the funding is
12 not continued for a five-year period, then (1) the amount of the
13 department's grant to the local housing trust fund, to the extent
14 that the trust fund has unencumbered funds available, shall be
15 immediately repaid, and (2) any payments from any projects funded
16 by the local housing trust fund that would have been paid to the
17 local housing trust fund shall be paid instead to the department
18 and used for the program or its successor. The total amount paid
19 to the department pursuant to (1) and (2), combined, shall not
20 exceed the amount of the department's grant.

21 (d) (1) Funds shall be used for the predevelopment costs,
22 acquisition, construction, or rehabilitation of the following types
23 of housing or projects:

24 (A) Rental housing projects or units within rental housing
25 projects. The affordability of all assisted units shall be restricted
26 for not less than 55 years.

27 (B) Emergency shelters, safe havens, and transitional housing,
28 as these terms are defined in Section 50801.

29 (C) For sale housing projects or units within for sale housing
30 projects.

31 (2) At least 30 percent of the total amount of the grant and the
32 match shall be expended on projects, units, or shelters that are
33 affordable to, and restricted for, extremely low income persons
34 and families, as defined in Section 50106. No more than 20 percent
35 of the total amount of the grant and the match shall be expended
36 on projects or units affordable to, and restricted for,
37 moderate-income persons and families whose income does not
38 exceed 120 percent of the area median income. The remaining
39 funds shall be used for projects, units, or shelters that are affordable

1 to, and restricted for, lower income persons and families, as defined
2 in Section 50079.5.

3 (3) If funds are used for the acquisition, construction, or
4 rehabilitation of for sale housing projects or units within for sale
5 housing projects, the grantee shall record a deed restriction against
6 the property that will ensure compliance with one of the following
7 requirements upon resale of the for sale housing units, unless it is
8 in conflict with the requirements of another public funding source
9 or law:

10 (A) If the property is sold within 30 years from the date that
11 trust funds are used to acquire, construct, or rehabilitate the
12 property, the owner or subsequent owner shall sell the home at an
13 affordable housing cost, as defined in Section 50025.5, to a
14 household that meets the relevant income qualifications.

15 (B) The owner and grantee shall share the equity in the unit
16 pursuant to an equity sharing agreement. The grantee shall reuse
17 the proceeds of the equity sharing agreement consistent with this
18 section. To the extent not in conflict with another public funding
19 source or law, all of the following shall apply to the equity-sharing
20 agreement provided for by the deed restriction:

21 (i) Upon resale by an owner-occupant of the home, the
22 owner-occupant of the home shall retain the market value of any
23 improvements, the downpayment, and his or her proportionate
24 share of appreciation. The grantee shall recapture any initial
25 subsidy and its proportionate share of appreciation, which shall
26 then be used to make housing available to persons and families of
27 the same income category as the original grant and for any type
28 of housing or shelter specified in paragraph (1).

29 (ii) For purposes of this subdivision, the initial subsidy shall be
30 equal to the fair market value of the home at the time of initial sale
31 to the owner-occupant minus the initial sale price to the
32 owner-occupant, plus the amount of any downpayment assistance
33 or mortgage assistance. If upon resale by the owner-occupant the
34 market value is lower than the initial market value, then the value
35 at the time of the resale shall be used as the initial market value.

36 (iii) For purposes of this subdivision, the grantee's proportionate
37 share of appreciation shall be equal to the ratio of the initial subsidy
38 to the fair market value of the home at the time of the initial sale.

39 (e) Loan repayments shall accrue to the grantee housing trust
40 for use pursuant to this section. If the trust no longer exists, loan

1 repayments shall accrue to the department for use in the program
2 or its successor.

3 (f) (1) In order for a city, county, or city and county to be
4 eligible for funding, the applicant shall, at the time of application,
5 meet both of the following requirements:

6 (A) Have an adopted housing element that the department has
7 determined, pursuant to Section 65585 of the Government Code,
8 is in substantial compliance with the requirements of Article 10.6
9 (commencing with Section 65580) of Chapter 3 of Division 1 of
10 Title 7 of the Government Code.

11 (B) Have submitted to the department the annual progress report
12 required by Section 65400 of the Government Code within the
13 preceding 12 months, if the department has adopted the forms and
14 definitions pursuant to subparagraph (B) of paragraph (2) of
15 subdivision (a) of Section 65400 of the Government Code.

16 (2) In order for a nonprofit organization applicant to be eligible
17 for funding, the applicant shall agree to utilize funds provided
18 under this chapter only for projects located in cities, counties, or
19 a city and county that, at the time of application, meet both of the
20 following requirements:

21 (1) Have an adopted housing element that the department has
22 determined, pursuant to Section 65585 of the Government Code,
23 to be in substantial compliance with the requirements of Article
24 10.6 (commencing with Section 65580) of Chapter 3 of Division
25 1 of Title 7 of the Government Code.

26 (2) Have submitted to the department the annual progress report
27 required by Section 65400 of the Government Code within the
28 preceding 12 months, if the department has adopted the forms and
29 definitions pursuant to subparagraph (B) of paragraph (2) of
30 subdivision (a) of Section 65400 of the Government Code.

31 (g) Recipients shall have held, or shall agree to hold, a public
32 hearing or hearings to discuss and describe the project or projects
33 that will be financed with funds provided pursuant to this section.
34 As a condition of receiving a grant pursuant to this section, any
35 nonprofit organization shall agree that it will hold one public
36 meeting a year to discuss the criteria that will be used to select
37 projects to be funded. That meeting shall be open to the public,
38 and public notice of this meeting shall be provided, except to the
39 extent that any similar meeting of a city or county would be
40 permitted to be held in closed session.

1 (h) No more than 5 percent of the funds appropriated to the
2 department for the purposes of this program shall be used to pay
3 the costs of administration of this section.

4 (i) A local housing trust fund shall encumber funds provided
5 pursuant to this section no later than 36 months after receipt. Any
6 funds not encumbered within that period shall revert to the
7 department for use in the program or its successor.

8 (j) Recipients shall be required to file periodic reports with the
9 department regarding the use of funds provided pursuant to this
10 section. No later than December 31 of each year in which funds
11 are awarded by the program, the department shall provide a report
12 to the Legislature regarding the number of trust funds created, a
13 description of the projects supported, the number of units assisted,
14 and the amount of matching funds received.